

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	20-CR-10098 (WGY)
)	
BRIAN GILBERT,)	
)	
Defendant)	

ASSENTED TO MOTION FOR SENTENCING HEARING VIA ZOOM

Defendant Brian Gilbert, by his counsel, respectfully moves the Court to allow him to attend his July 17, 2024 sentencing hearing by Zoom rather than in person. As grounds for the motion, defendant Gilbert states as follows:

1. Defendant Gilbert was charged by Information and pleaded guilty to the charges in that document on October 29, 2020. (Dkt. Entry 1 and 40).
2. Defendant Gilbert was diagnosed with Stage III colorectal cancer in September 2020. In October 2022, he learned that the cancer had metastasized to his liver. Following the October diagnosis Defendant Gilbert underwent multiple treatments including chemotherapy and radiation, with the goal of shrinking the tumor so that it could be surgically removed safely.
3. On January 30, 2024, Defendant Gilbert underwent surgery at Kaiser Hospital to remove the half of the liver with the cancerous tumor. The procedure was aborted when the surgeon discovered that the cancer had spread to Defendant Gilbert's diaphragm. See Declaration of Miranda Kane in Support of Motion to Appear at Sentencing Hearing via Zoom, Exhibit A, report of Dr. Choi (impounded). Based on the cancer's spread to other organs, Defendant Gilbert's medical team thereafter upgraded it from Stage III to Stage IV.

4. Defendant Gilbert's doctors have determined that there are no remaining curative treatment options. Defendant Gilbert has been advised and understands that the remaining goals of any further treatment are to palliate symptoms and prolong life. *See Id.*, Exhibit B, report of Dr. Imoto, (impounded).

5. Defendant Gilbert has enrolled in an immunotherapy study through the City of Hope in Southern California in the hope of prolonging his life. The trial includes daily oral treatments as well as bimonthly infusions at the City of Hope, both of which have significant side effects. *See Id.*, Exhibit C, Adult Informed Consent (impounded).

6. Defendant Gilbert has begun the first four-month phase of the trial and had his second infusion on June 28, 2024. If he is able to withstand the treatments, the last infusion will be on October 4, 2024, after which he will undergo further testing to determine whether he will advance to the next four-month phase.

7. Based on his treatment schedule and the unpredictable nature of the side effects, cross country travel is not advised. Therefore, Defendant Gilbert respectfully requests that he and his counsel be allowed to appear by Zoom at his July 17, 2024 sentencing hearing.

8. Assistant United States Attorney Seth Kosto assents to Defendant Gilbert's request.

Respectfully submitted,

BRIAN GILBERT
Defendant

/s/ Miranda Kane
MIRANDA KANE
Conrad | Metlitzky | Kane LLP
217 Leidesdorff
San Francisco, California 94111

/s/ Douglas S. Brooks

Douglas S. Brooks (BBO No. 636697)
Libby Hoopes Brooks & Mulvey, P.C.
260 Franklin Street, Boston, MA 02110
(617) 338-9300
dbrooks@lhbmlegal.com

Dated: July 2, 2024

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-participants on July 2, 2024.

/s/ Douglas S. Brooks

Douglas S. Brooks